

## WARREN COUNTY BOARD OF SUPERVISORS

COMMITTEE: FINANCE

DATE: NOVEMBER 12, 2014

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**COMMITTEE MEMBERS PRESENT:**

SUPERVISORS CONOVER  
TAYLOR  
SOKOL  
MONROE  
WOOD  
KENNY  
MERLINO  
FRASIER  
DICKINSON

**OTHERS PRESENT:**

KEVIN GERAGHTY, CHAIRMAN OF THE BOARD  
PAUL DUSEK, COUNTY ADMINISTRATOR  
MARTIN AUFFREDOU, COUNTY ATTORNEY  
JOAN SADY, CLERK OF THE BOARD  
FRANK THOMAS, BUDGET OFFICER  
SUPERVISORS BROCK  
SEEBER  
SIMPSON  
WESTCOTT  
MIKE SWAN, COUNTY TREASURER  
JEFFERY TENNYSON, SUPERINTENDENT OF PUBLIC WORKS  
ROBERT BLAIS, MAYOR, VILLAGE OF LAKE GEORGE  
TONY HALL, *LAKE GEORGE MIRROR*  
DON LEHMAN, *THE POST STAR*  
THOM RANDALL, *ADIRONDACK JOURNAL*  
AMANDA ALLEN, DEPUTY CLERK OF THE BOARD  
*Please see sign-in sheet for all other meeting attendees*

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Mr. Conover called the meeting of the Finance Committee to order at 10:29 a.m.

Motion was made by Ms. Wood, seconded by Mr. Taylor and carried unanimously to approve the minutes of the prior Committee meeting, subject to the Clerk of the Board.

Copies of the meeting agenda were distributed to the Committee members and a copy of same is on file with the meeting minutes.

Commencing the Agenda review with Section III, Item 1, Mr. Conover addressed a request to authorize transfers of funds, as included in the Agenda packet for Committee approval.

Motion was made by Ms. Wood, seconded by Mrs. Frasier and carried unanimously to approve the request and the necessary resolution was authorized for the November 21<sup>st</sup> Board Meeting.

Mr. Conover advised Item 2 pertained to a request from the Treasurer's Office for a Contingent Fund transfer in the amount of \$500 to pay filing fees to have Michael Swan, County Treasurer, appointed as administrator of two estates to try and collect approximately \$100,000 in debt owned to the County. He noted that Attorney Thomas Clements had a contract with the County to collect this debt, along with several others.

Motion was made by Mr. Merlino and seconded by Mr. Dickinson to approve the request.

Mr. Swan explained he had been approached by Attorney Clements with respect to outstanding debts owed to Westmount Health Facility for two deceased residents which totaled more than \$200,000. He said Attorney Clements had indicated that the estates for these two former patients were not being settled and he had proposed attempting to have Mr. Swan appointed as administrator of these estates by the Surrogate Court to see if there were any funds available in the estates to collect some of these outstanding debts. Mr. Swan advised Attorney Clements was asking for \$500 in advance to cover the filing fees in Surrogate Court and had indicated that he would reduce the percentage he received for collection of any outstanding debts by \$500.

Mr. Sokol questioned what percentage Attorney Clements received for collection of outstanding debts and Mr. Swan replied that he would receive 28% of the amount collected. Martin Auffredou, County Attorney, apprised that he had discussed this issue with Mr. Swan and Attorney Clements and he agreed this was a good idea and would give the County more strength in these collection proceedings; he added that these were two of the largest debts owed and were somewhat troublesome.

There being no further discussion, Mr. Conover called the question and the aforementioned motion was carried by unanimous vote, approving the necessary resolution for the November 21<sup>st</sup> Board Meeting.

Moving on to Item 3, Mr. Conover introduced Kara Lais Esq., of the Fitzgerald, Morris, Baker, Firth Law Firm, who was in attendance to address the Committee with regards to a request for approval of bonding for a Warren/Washington Counties Civic Development Project.

Ms. Lais advised she was attending in representation of the Warren/Washington Counties Civic Development Corporation (CDC) which was created and formed by Warren and Washington Counties and served as a subsidiary of the Warren-Washington Counties Industrial Development (IDA) Agency and provided civic facility financing for various projects that were not eligible for IDA assistance. She apprised the current CDC project related to a Hudson Headwaters Health Network 28,000 sq. ft. medical facility which was proposed to be built on Carey Road in the Town of Queensbury. She added that the estimated cost of the new construction was \$7.1 million, but she noted the CDC was requesting authorization to bond \$7.5 million to ensure sufficient funding was available to cover any overages or incidental costs. Ms. Lais pointed out that a copy of the suggested resolution was included in the Agenda packet and she advised the CDC's rules and regulations required authorization by resolution from both Warren and Washington Counties to approve the issuance of bonds. She noted that the CDC would be continuing with their part of the process, holding a public hearing on Monday, November 10<sup>th</sup> at 10:00 a.m. and she said they anticipated a December closing date for the project; she added that the CDC was requesting Warren County's approval for bonding as quickly as possible in order to maintain the projected closing schedule.

Mr. Conover advised that the soonest the resolution could be approved was at the next Board of Supervisors meeting to be held on November 21<sup>st</sup>; however, he said, he was sure review by the County Attorney and Administrator would be necessary before this resolution was approved. Paul Dusek, County Administrator, suggested it might be appropriate for the Finance Committee to approve the request, contingent upon review by the County Attorney to confirm that this action was appropriate and that there would be no financial obligation to Warren or Washington County; he added that Mr. Auffredou could forward a memo to the members of the Board of Supervisors providing his advisements prior to the Board Meeting.

Motion was made by Mr. Monroe, seconded by Mr. Dickinson and carried by majority vote, with Mr. Taylor abstaining, to approve the resolution sought by the CDC, contingent upon the County Attorney's review and confirmation that this action would not incur any financial obligation to Warren or Washington County, to be presented at the November 21<sup>st</sup> Board Meeting.

Moving on to Item 4, Mr. Conover outlined a referral from the County Facilities Committee, *Buildings & Grounds*, indicating that the Committee had approved a letter of authorization to allow Clark Patterson Lee to advance a schematic design and/or final design of Concept 1 (*construction of new space*) for the Court Space Expansion Project and has referred the matter to the Finance Committee to determine a source of funding for said work and to discuss bonding options.

Mr. Dusek explained the County Facilities Committee had recommended that the court expansion project continue using the Option 1 plans presented by Clark Patterson Lee which consisted of constructing a new building attached to the Municipal Center to house the Courts, as well as to undertake a renovation of certain existing facilities. He further explained that in order to advance the

project, a resolution would need to be approved at the November 21<sup>st</sup> Board Meeting indicating that the Board intended to proceed with the Option 1 plans and determining how the additional costs associated with the schematic plans would be funded, as well as to address the SEQRA (*State Environmental Quality Review Act*) facts of the project required to bond the construction costs. Mr. Dusek stated that the total cost for the next phase of work to be completed by Clark Patterson Lee was \$118,000; he said he had learned there was about \$72,000 remaining in Capital Project H350.9550 280, *Court Space Expansion*, and they would need to identify a source of funding for the remaining \$46,000. Mr. Dusek advised that due to timing issues, they would be unable to bond the additional \$46,000. He explained that before they could bond the construction costs, a resolution announcing the Board's intent to bond the project needed to be adopted. Mr. Dusek said that the necessary funds were available within the General Fund Unappropriated Surplus and he suggested that the monies be transferred from there into the capital project, with the understanding they would seek to bond all future project-related costs. Mr. Dusek advised that if the Committee was interested in advancing the project as recommended by the County Facilities Committee, they would need to identify a source of funding for the additional \$46,000 and approve a resolution which would: 1) adopt the Court Expansion Project Needs Assessment as prepared by Clark Patterson Lee; 2) authorize necessary action for the County to move forward with Concept 1 of the Court Expansion Project; 3) express intent to borrow funding necessary to complete the Court Expansion Project; and 4) establish lead agency status for the Court Expansion Project under SEQRA regulations. He also noted that the County would require Bond Counsel for this process and he said he believed Mr. Auffredou would begin this search through an RFP (*Request for Proposal*) process. Mr. Auffredou confirmed that bond counsel would be necessary and he advised he would be sending the RFP out to about 12 law firms next week; he added that he anticipated a firm would be chosen within the first quarter of 2015.

With regards to bonding, Mr. Taylor noted that they should try to keep their bonding business as local as possible; he acknowledged prior discussion about possibly using the Dormitory Authority to obtain a lower interest rate, but noted that they may be able to get a similar rate through the CDC. Mr. Dusek responded that they needed to keep in mind that because they were working with the New York State Court System there may be some restrictions they had to abide by, but he confirmed they would try to keep this business local if they were able to do so.

Following further discussion, motion was made by Mr. Dickinson, seconded by Mr. Monroe and carried unanimously to approve the multifaceted resolution suggested by Mr. Dusek to advance the Court Expansion Project using Option 1 presented by Clark Patterson Lee, as well as to approve the appropriation of \$46,000 from the General Fund Unappropriated Surplus to Budget Code A.9950 910, *Transfers-Capital Projects, Interfund Transfers*, and to increase Capital Project No. H350.9550 280, *Court Space Expansion*, in the amount of \$46,000, and the necessary resolutions were authorized for the November 21<sup>st</sup> Board Meeting.

Resuming the Agenda review with Item 5, referral from the Health Services Committee, *Public Health*, Mr. Conover outlined a request to amend the 2014 County Budget to reflect the receipt of unanticipated revenues and appropriations in the amount of \$1,200 for a portion of a Bioterrorism grant which commenced on July 1, 2014 and would terminate on June 30, 2015.

Motion was made by Mr. Sokol, seconded by Mr. Taylor and carried unanimously to approve the request and the necessary resolution was authorized for the November 21<sup>st</sup> Board Meeting.

Mr. Conover said Item 6 consisted of a referral from the Mental Health Committee, *Office of Community Services*, requesting to amend the 2014 County Budget for the Office of Community Services to reflect the receipt of unanticipated revenues and appropriations in the amount of \$6,880 in State funding provided to make upgrades to computers, equipment and supplies.

Motion was made by Ms. Wood, seconded by Mrs. Frasier and carried unanimously to approve the

request and the necessary resolution was authorized for the November 21<sup>st</sup> Board Meeting.

Proceeding, Mr. Conover noted that Items 7A-B consisted of referrals from the Park Operations & Management Committee. Item 7A, he said, requested Finance Committee authorization to approve the bonding of expenses associated with the purchase and installation of fencing around the perimeter of the Festival Space at the Charles R. Wood Park. Mr. Conover advised Item 7B included a request to appropriate funds in the amount of \$3,549.50 from Budget Code A.697.07, *Deferred Revenue - Gaslight Village Parking Fees*, to Budget Code A.1625 413, *Gaslight Village Property, Repair & Maint.- Bldg/Property*, to reimburse the Village of Lake George for expenses incurred in connection with events held at the Festival Space.

Motion was made by Mr. Sokol and seconded by Mr. Kenny to approve both Items 7A and 7B. Mr. Monroe noted that these items merited separate discussion and he felt the motions should be made separately; Messrs. Sokol and Kenny agreed and rescinded their motion.

With regards to Item 7A, Mr. Monroe apprised Mayor Blais, Village of Lake George, had been working diligently to attract events to the Festival Space in 2015 and had booked about 12 so far; however, he added, each event required fencing which was expensive to rent. Mr. Monroe recalled that in order to keep the Festival Space construction costs within budget, the PMEC (*Project Management Executive Committee*) had elected to remove the fencing initially proposed from the project. He continued that it was clear that fencing was needed and both the Park Operations & Management and PMEC Committees had reviewed the fencing options provided and settled upon the “Omega” brand fencing which had an intermediate cost in comparison to the other fencing options. Mr. Monroe commented that the only way to fund the fencing expense was by using occupancy tax funding, bonding the costs, or dedicating monies from the General Fund because he said he did not believe the projected parking revenues would be sufficient, unless they were able to use parking revenues from the County’s West Brook Parking Lot; he added that it might be appropriate to use some funding from the West Brook Parking Lot for this expense since the majority of the cars parked there were likely going to the Festival Space or the Wood Park. Mr. Monroe concluded that this item had been referred to the Finance Committee for their consideration in bonding the fencing costs.

Mayor Blais agreed that fencing was required for the Festival Space and he noted that the cost for the Omega brand fencing chosen would be about \$183,000. Jeffery Tennyson, Superintendent of Public Works, advised that the fencing options were included in the Agenda packet. Mayor Blais stated the Village had collected about \$50,000 in cash payments for parking revenues for 2014 at the West Brook Parking Lot and he estimated the total collected for the season was probably closer to \$100,000 when the credit card payments collected by the County were accounted for. He continued that the parking revenues would likely only rise commensurate with the additional events held at the Festival Space; therefore, he said, using revenues from the West Brook Parking Lot was a good suggestion. Mayor Blais stated that the Village Board had already decided to mirror whatever decision the County made.

Mr. Kenny suggested referring this matter to the Occupancy Tax Coordination Committee for review to determine whether occupancy tax funding could be contributed to the expense.

Motion was made by Mr. Monroe, seconded by Mr. Kenny and carried to refer this issue to the Occupancy Tax Coordination Committee.

Mr. Monroe noted that depending upon the decision made by the Occupancy Tax Coordination Committee, the matter may come back to the Finance Committee for further discussion on bonding.

Mr. Monroe explained the appropriation requested in Item 7B would allow for reimbursements to the Village of Lake George for expenses incurred in relation to events held at the Festival Space.

Motion was made by Mr. Dickinson, seconded by Mr. Kenny and carried unanimously to approve Item 7B and the necessary resolution was authorized for the November 21<sup>st</sup> Board Meeting.

Item 8, Mr. Conover stated, included a referral from the Public Safety Committee, *Office of Emergency Services*, requesting to amend the 2014 County Budget to reflect the receipt of unanticipated revenues and appropriations in the amount of \$4,211 in Local Emergency Planning grant funding.

Motion was made by Mr. Dickinson, seconded by Ms. Wood and carried unanimously to approve the request and the necessary resolution was authorized for the November 21<sup>st</sup> Board Meeting.

Mr. Conover advised Items 9A-D pertained to referrals from the Public Works Committee, *DPW*, which he outlined, as follows:

- 9A) Request to amend the 2014 County Budget in the amount of \$6,000 to increase miscellaneous fees and expenses related to battery disposal.
- 9B) Request to create Capital Project No. H351.9550 280, *CR44 over Hudson River Bridge Painting Project*, in the amount of \$12,600.
- 9C) Request to create Capital Project No. H352.9550 280, *CR31 & CR13 Bridge Painting Project*, in the amount of \$13,600.
- 9D) Request to create Capital Project No. H353.9550 280, *County Bridge Abatement & Painting Project*, in the amount of \$11,400.

Motion was made by Mr. Merlino, seconded by Mr. Taylor and carried unanimously to approve Item 9A, as outlined above, and the necessary resolution was authorized for the November 21<sup>st</sup> Board Meeting.

Motion was made by Mr. Merlino, seconded by Mr. Dickinson and carried unanimously to approve Items 9B-D, as outlined above, and the necessary resolutions were authorized for the November 21<sup>st</sup> Board Meeting.

Mr. Conover announced Items 10A-B consisted of referrals from the Real Property Tax Services Committee. Item 10A, he said, requested to authorize stipulation of settlement agreement regarding Alexy Brothers, et al vs. Town of Queensbury, Queensbury Union Free School District and Warren County in the amount of \$11,777.12 as a result of Real Property Tax Law Article 7 proceedings, as well as to determine a source of funding for said settlement agreement.

Motion was made by Mr. Monroe and seconded by Mr. Dickinson to approve the request.

Mr. Auffredou advised this issue had been discussed at length during the last Real Property Tax Services Committee meeting. He explained it pertained to the settlement of a long outstanding Article 7 proceeding against the Town of Queensbury which commenced in 2006 and was originally a hybrid challenge of an Article 78 and Article 7 proceeding by some 50-60 property owners who all owned lake front property. Mr. Auffredou further explained he had been involved in these matters since 2006 when he represented the Town of Queensbury and Lake George School Districts. He advised that over the years the Assessor for the Town of Queensbury had whittled away at these parcels and had reached settlements on most of them, leaving only the three that remain outstanding and are the subject of discussion in this matter. Mr. Auffredou said it was his understanding that all three of these properties are located on Lake George and within the Lake George Central School District and not the Queensbury Union Free School District. He continued that he had spoken with Mr. Swan at length about this matter and it was his understanding that the Real Property Tax Services Committee had recommended a settlement of these proceedings and referred the issue to the Finance Committee to determine a source of funding for the settlement. Mr. Auffredou said this would be a one time payment of \$11,777.12 to be apportioned among the three properties and paid to the property owners thereof as deemed appropriate by the Warren County Treasurer. He concluded it was his recommendation to move this item forward for approval and to identify a funding source.

Mr. Swan interjected that there was already a source of funding available through the Treasurer's Office as they did things like this on a regular basis. Mr. Auffredou advised that what made this proceeding different than the ones typically handled by the Treasurer's Office, was that in most instances the County was not a named respondent and in this case they were; he added that as a result approval was needed to authorize him to sign the settlement agreement. Mr. Auffredou stated that when the matter was discussed by the Real Property Tax Services Committee they had requested that a source of funding be identified, but it appeared that was no longer necessary.

Mr. Monroe asked if the \$11,777.12 was to be completely borne by Warren County and Mr. Auffredou responded affirmatively, noting that the amount paid by Lake George Central School District was much larger while the Town of Queensbury would pay a smaller amount.

There being no further discussion, Mr. Conover called the question and the aforementioned motion was carried by a unanimous vote, thereby authorizing the necessary resolution for the November 21<sup>st</sup> Board Meeting.

Continuing, Mr. Conover outlined Item 10B which sought authorization to support NYSAC's (*New York State Association of Counties*) request for financial support in the amount of \$2,000 for Wayne County's lawsuit regarding tax foreclosure auction proceedings, as well as to determine a source of funding for this expense.

Motion was made by Mr. Dickinson and seconded by Mr. Monroe to approve the request.

Mr. Auffredou advised this issue had also been discussed in considerable detail at the last Real Property Tax Services Committee, following notification he had received from NYSAC regarding a pending lawsuit in the bankruptcy court for the western district of New York involving Wayne County. He explained that Wayne County, like Warren County, followed Article 11 of the Real Property Tax Law concerning tax foreclosures. He added that in this case Wayne County had proceeded to auction for the sale of a particular parcel, following which the prior owner, and delinquent taxpayer, had filed a petition in bankruptcy court maintaining that as per Section 548 of the Bankruptcy Code, Wayne County's conveyance of the property pursuant to the auction was a fraudulent conveyance and that the transaction needed to be undone and the property re-conveyed to the original owner or that damages must be assessed. Mr. Auffredou advised this situation was exacerbated by the fact that the new owner had made considerable improvements to the property. He said that if this debtor in bankruptcy was successful in their legal challenge, it could present problems for Warren County, and many other counties that employed Article 11 of the Real Property Tax Law, in relation to their foreclosure actions. Mr. Auffredou apprised he had contacted the Attorney for Wayne County to discuss the status of the legal proceedings and had been advised that a number of counties were expressing funding support for Wayne County's litigation costs which had already accumulated to about \$250,000; he added that Wayne County expected to receive a decision on this litigation soon and may have to appeal that decision. Mr. Auffredou stated that Wayne County was seeking contributions of as much as \$2,000 per county towards their legal expenses and he said that pursuant to his discussions with the County Treasurer and the Real Property Tax Services Committee, he believed this would be a good cause and a valid expense in light of the prospective issues Warren County could face if Wayne County was not successful. He commented that there may also be a legislative fix for this issue and the resolution he intended to prepare with the Finance Committee's approval, would urge State and Federal Legislators to take action to remedy this issue so that sales as a result of auction proceedings under Article 11 would not be considered fraudulent conveyances. Mr. Auffredou concluded that he had contacted the County Attorneys for both Saratoga and Washington Counties and learned that neither intended to provide a contribution to this cause.

Mr. Conover questioned what source of funding would be used to support this expense would be and Mr. Dusek replied it would be the Continent Account. Mr. Monroe commented that this would be a wise

investment for Warren County to make as a ruling against Wayne County could prove very disruptive to Warren County's tax foreclosure proceedings.

Messrs. Dickinson and Monroe agreed to amend their motion to identify the Contingent Account as the source of funding for the \$2,000 contribution to Wayne County.

There being no further discussion, Mr. Conover called the question and the aforementioned motion was carried by a unanimous vote, thereby authorizing the necessary resolution for the November 21<sup>st</sup> Board Meeting.

With regards to Agenda Item 11, Mr. Conover advised there were no requests/items to be discussed by the County Administrator. Privilege of the floor was extended to Martin Auffredou, County Attorney, to address Item 12, *Requests/Items to be discussed by the County Attorney*. Mr. Auffredou advised Item 12A had been discussed at the start of the meeting under the request by the County Treasurer. With regards to Item 12B, he explained Resolution No. 452 of 2014 had authorized the settlement of litigation in the matter of Plummer v. Warren County, subject to final review of settlement documents by the County Attorney; he added that the documents had been reviewed closely with special counsel and this contingency has been met. Mr. Auffredou said he was now ready to sign the documents to conclude the settlement; however, Resolution No. 452 of 2014 did not provide authorization for him to do so. Therefore, he continued, he was requesting an amendment to Resolution No. 452 of 2014 to include verbiage authorizing the County Attorney to sign the settlement documents.

Motion was made by Mr. Kenny, seconded by Mr. Dickinson and carried unanimously to approve the request to amend Resolution No. 452 of 2014, as outlined above, and the necessary resolution was authorized for the November 21<sup>st</sup> Board Meeting.

Concluding the Agenda review, Mr. Conover noted that Finance Committee action was required on the following items as approved by the Personnel Committee: 3A, 3B and 4.

Motion was made by Mr. Sokol, seconded by Mrs. Fraiser and carried unanimously to approve the request and the necessary resolution was authorized for the November 21<sup>st</sup> Board Meeting.

Mr. Conover announced Mr. Auffredou had requested an executive session. Mr. Auffredou explained that Open Meetings Law Section 108(3) exempted from the Open Meetings Law any matter made confidential by Federal or State Law; he added that one of the State Laws matters were held confidential under was CPLR4503 which was the attorney-client privilege section. Mr. Auffredou clarified that he was not recommending that an executive session be conducted, but rather that a closed meeting be held outside the scope of the Open Meetings Law for the purpose of hearing specific legal advice from the County Attorney on a matter. He advised they could either conclude the Finance Committee meeting and then hold the closed meeting, or they could make a motion to enter into a closed session now and then conclude the Finance Committee meeting upon reconvening.

Mr. Conover questioned whether there would be any action taken following the closed session and Mr. Auffredou replied in the negative, noting this was not the type of meeting where any action could be taken. Mr. Conover stated that he would prefer to close the Finance Committee meeting and then hold a separate meeting in closed session, as identified by Mr. Auffredou.

There being no further business to come before the Finance Committee, on motion made by Mr. Sokol and seconded by Mr. Dickinson, Mr. Conover adjourned the meeting at 11:08 a.m.

Respectfully submitted,  
Amanda Allen, Deputy Clerk of the Board